

# *National Aggressive Driving Action Guide* *A Criminal Justice Approach* ♦



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# *Aggressive*

## **National Aggressive Driving Action Guide** ***A Criminal Justice Approach* ♦**



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of Transportation  
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## Preface

Aggressive driving has become a serious problem on our Nation's roadways. What is aggressive driving? Most of us know it when we see it, but the National Highway Traffic Safety Administration (NHTSA), after discussions with law enforcement and the judiciary, defines aggressive driving as occurring when “an individual commits a combination of moving traffic offenses so as to endanger other persons or property.”

Examples of aggressive driving include speeding or driving too fast for conditions, constant lane changing, and improper passing.<sup>1</sup> The problem of aggressive driving affects us all and poses a serious safety risk to anyone on the road. That is why the U.S. Department of Transportation (DOT) joined with law enforcement agencies, prosecutors, judges, and civic and other organizations nationwide to look for ways to address this issue. One product of this effort is this **National Aggressive Driving Action Guide** (Action Guide).

This Action Guide is the result of a series of meetings among distinguished criminal justice professionals—law enforcement leaders, prosecutors, judges, and a representative from the defense bar—and NHTSA staff, who comprised an Aggressive Driving Implementation Team (Implementation Team). This team was formed to develop strategies based on recommendations by participants attending the *1999 DOT Aggressive Driving and the Law: A Symposium*<sup>2</sup> (see the website, <http://www.nhtsa.dot.gov/people/injury/aggressive/Symposium/exesummary.html>, for an executive summary). Symposium participants from the public safety, legal, adjudication, and community sectors identified six topic areas that they believed would be useful for categorizing aggressive driving countermeasures. The six areas were (I) Statutory Strategies, (II) Enforcement Strategies, (III) Applied Technology, (IV) Charging Decisions, (V) Sentencing Strategies, and (VI) Community Leadership. The Implementation Team used these categories to frame this guide, which provides recommendations to the States for mitigating the problem of aggressive driving. Potential users include State and local officials, legislative bodies, criminal justice practitioners, highway safety advocates, related organizations, and the community at large. While these recommendations fall under six topic areas, their intended audiences and therefore the recommendations themselves often overlap.

The intent of the Implementation Team was to create a dynamic and easy-to-update planning guide for the States. Recognizing that the problem of aggressive driving does not lend itself to a “one size fits all” solution, the Implementation Team recommended strategies that States can customize to create potential “best solutions.” For instance, “Statutory Strategies” includes a model reckless driving statute that States can modify for their own purposes.

The following Action Guide delineates recommended action strategies and is the culmination of more than 18 months of committed effort by the Implementation Team.

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<sup>1</sup>Aggressive driving behavior should not be confused with road rage, which is generally considered an assault—a criminal and, though more highly profiled in the media, a much less common occurrence.

<sup>2</sup>Because the Implementation Team was formed to devise strategies for carrying out recommendations developed by symposium participants, it does not constitute a Federal Advisory Committee under the Federal Advisory Committee Act.

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# Executive Summary

## Background and Introduction

The problem of aggressive driving affects all those who use our roadways and is a major concern of highway users (includes pedestrians, motorcyclists, and bicyclists). According to a 1999 NHTSA telephone survey of 6,000 drivers, more than 60 percent of those interviewed saw unsafe driving by others as a major personal threat to themselves and their families. This threat is real. NHTSA estimates that about one-third of traffic crashes and about two-thirds of the resulting fatalities can be attributed to driving behavior commonly associated with aggressive driving<sup>3</sup> (e.g., violations such as improper lane changing, improper passing, red-light running, and speeding).

Law enforcement personnel and communities across the country continue to see lives destroyed by aggressive driving crashes. NHTSA joins with them and with all the other integral players, including defense attorneys, prosecutors, judges, and civic groups, to encourage and support efforts to eradicate this deadly serious problem. While many innovative enforcement efforts currently underway in different States are raising awareness of the risks of aggressive driving and curtailing violations, much more needs to be done to give this problem the prominence in people's minds that other safety initiatives, such as impaired driving, have occupied. To reach this goal, all sectors must work together toward a common purpose—to stop aggressive driving.

Toward that end, on January 22-23, 1999, the U.S. Department of Transportation (DOT) brought together an array of public safety, legal, adjudication, and community representatives to discuss ways to counter the pervasive problem of aggressive driving on our Nation's roadways. The symposium, *Aggressive Driving and the Law: A Symposium*, featured participation by transportation officials, district and State attorneys, district court judges, law enforcement administrators, emergency personnel, criminal defense attorneys, safety advocates and activists, researchers, and government policy makers. Six topic areas framed participant discussions and recommendations developed in breakout sessions. These six categories were (I) Statutory Strategies, (II) Enforcement Strategies, (III) Applied Technology, (IV) Charging Decisions, (V) Sentencing Strategies, and (VI) Community Leadership. The Aggressive Driving Implementation Team (Implementation Team), selected from symposium participants and formed to devise strategies for carrying out these recommendations, organized them into a **National Aggressive Driving Action Guide** (Action Guide) intended for use by State and local officials, legislative bodies, criminal justice practitioners, highway safety advocates and related organizations, and the community.

## Summary of Recommendations

The Implementation Team's aggressive driving recommendations, collected under the six topic areas, make up the body of the Action Guide. The Action Guide aims to mitigate the problem of aggressive driving through stronger laws, enhanced law enforcement, increased follow-up by prosecutors and judges, and heightened awareness among the general public. Recommendations in each of the six areas are briefly summarized below.

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<sup>3</sup>Statement made by NHTSA Administrator Ricardo Martinez, M.D., before the Subcommittee on Surface Transportation in the U.S. House of Representatives (July 17, 1997).

## **Statutory Strategies**

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Agreeing with symposium participants that aggressive driving is a State and not a Federal issue, the Implementation Team developed a generic statutory model for State legislatures and agencies to tailor for their own uses. The Implementation Team encourages States to adopt the model statute as a means to enact or improve their reckless driving statutes, to include aggressive driving. In general, Implementation Team members recommend strengthening existing statutes to send a clear message that aggressive driving is a serious offense—potentially criminal and chargeable as a felony. They also recommend that State and Federal governments provide assistance to law enforcement agencies and other areas within the criminal justice system to help defray the costs of and provide support for retraining on new reckless or aggressive driving statutes.

## **Enforcement Strategies**

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The foremost recommendation in this area is for all involved parties—from law enforcement, prosecutors, and the judiciary to transportation officials, automobile manufacturers, and motorists—to establish aggressive driving as a national priority requiring attention. Innovative funding for aggressive driving programs and related equipment and training, and expansion of law enforcement platforms to help apprehend and prosecute violators who would otherwise go undetected, are also recommended. Equipping law enforcement officers with innovative technologies to better detect and apprehend aggressive drivers, and establishing “tip” lines for citizens to report unsafe driving, are major recommendations, requiring the cooperation of other sectors, including government officials and the cellular telephone industry. Implementation Team members also call for multi-agency approaches to aggressive driving, including developing public education and awareness strategies and using regional markets for expanded media exposure. Finally, Implementation Team members encourage all groups to work together to validate the causes and impacts of aggressive driving behavior for more targeted enforcement and educational efforts to a variety of high risk groups.

## **Applied Technology**

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Recommendations in this category include promoting wider use of enforcement-related technologies, such as in-car video cameras, automated speed and photo red-light enforcement cameras, laser speed-measuring equipment, and unstaffed radar speed display devices. Also recommended is facilitating better communications among different disciplines, including establishing data links from officers' reports and citation-writing functions to the prosecutor's office, and to court systems when appropriate. Other technology recommendations include increasing the use of computer technology in patrol cars to give officers access to license histories and previous stops, exploring the use of variable speed limit signs, and promoting Intelligent Transportation Systems (ITS) technology, particularly for its congestion relief benefits. The Implementation Team also encourages communities to take advantage of computer-based distance learning opportunities related to driver education.

## **Charging Decisions**

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The main recommendation in this category is to criminalize aggressive driving behavior through reckless driving statutes. The message must be clear to law enforcement, the judiciary, and legislators that when multiple violations occur together or in rapid succession, they should be charged as a criminal offense, with possible penalties of probation and incarceration. The Implementation Team suggests development of written guidelines and training for prosecutors

and law enforcement personnel to guide them in making appropriate charging decisions. Additionally, it recommends achieving heightened awareness of the aggressive driving issue through the professional education of law enforcement personnel, prosecutors, and judges, to give it greater prominence on everyone's agenda.

### **Sentencing Strategies**

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The primary recommendation in this area, directed to the judiciary, is for State legislatures to enact a broad range of criminal sanctions to provide judges more sentencing flexibility. A related recommendation is to make available to judges as many of the traditionally accepted sentencing objectives as possible, including deterrence, rehabilitation, education, punishment, restitution, and recovery of costs. A major recommendation is to make differing degrees of severity a part of penalty provisions in aggressive driving statutes, depending on the nature of the offenses and any aggravating circumstances. Criminal sanction statutes should include license suspension or revocation, and judges should make use of probationary conditions. The Implementation Team believes that implementing effective strategies depends on the willingness of legislators to afford judges sentencing discretion and provide them with the necessary personnel, facilities, and flexibility to use it effectively.

### **Community Leadership**

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Having the support of communities is an integral part of increasing awareness of the risks associated with aggressive driving. Partnerships forged with community leaders and others working at the grassroots level help to spread the word about the dangers of aggressive driving and the safety threat it poses to everyone in the community. The Implementation Team strongly believes in the power of business leaders, community organizations, and government officials to raise awareness about aggressive driving among their constituents. Public education and awareness will help to turn the tide against aggressive driving and classify it as socially unacceptable. Implementation Team members advocate adoption of a zero tolerance stance, public awareness campaigns and community outreach by law enforcement, business, and community leaders to create a powerful catalyst for transforming attitudes toward and tolerance for aggressive driving.

### **Conclusion**

NHTSA will ensure that the National Aggressive Driving Action Guide receives wide distribution to a variety of audiences, each with a role to play in helping to mitigate the serious problem of aggressive driving on our roadways. The Action Guide's organization reflects this intended diversity, as each section speaks to particular audiences and calls for individual and combined efforts to raise awareness of the seriousness of the aggressive driving problem. This Action Guide will go to State and regional highway safety offices, national prosecutors' associations, judicial membership groups, law enforcement organizations, and highway safety advocates, among others. It will also be accessible on NHTSA's website. An important recommendation of the Implementation Team was for NHTSA to continue to collect aggressive driving program information so that States can continue to share "best practices"—a clearinghouse approach that will help States identify, adapt, and fine-tune recommended solutions to meet their own needs.

# Background and Introduction

## Statement of Problem

### Where We Are

NHTSA estimates that about one-third of traffic crashes and about two-thirds of the resulting fatalities can be attributed to driving behavior commonly associated with aggressive driving<sup>4</sup> (e.g., improper lane changing, improper passing, red-light running, and speeding). In January 1999, NHTSA published a telephone survey of 6,000 drivers, age 16 and older, who shared their attitudes and experiences about speeding and unsafe driving—including aggressive driving.<sup>5</sup> More than 60 percent of those interviewed perceived unsafe driving by others, including speeding, as a major personal threat to themselves and their families. Three out of four drivers believed that doing something about unsafe driving was “very important.” And more than half of the 6,000 respondents admitted to driving recklessly on occasion. But while many people admit to driving aggressively at times—such as when they are late to work—aggressive drivers as a group tend to have certain defining characteristics (see sidebar).

To address the growing problem of aggressive driving and to make it more of a high-profile traffic safety issue, DOT created an Aggressive Driving Implementation Team to develop a **National Aggressive Driving Action Guide**. As previously stated, the Action Guide seeks to help States address the problem of aggressive driving through recommended solutions in six topic areas. In developing its recommendations, the Implementation Team gave thoughtful consideration to the variety of issues informing the aggressive driving problem, making the resulting Action Guide more “reality-based.” Understanding that some States or communities would not be able to fully adopt all or any of its recommendations, the Implementation Team decided not to prescribe specific procedures for States to follow, but rather recommend best practices to counter the aggressive driving problem—from statutory, enforcement, technological, judicial, and community approaches. To this end, the

### Characteristics of Aggressive Drivers

- They are high-risk drivers, more likely to drive impaired, to speed, and/or to drive unbuckled.
- They are drivers who see their vehicles as providing a cover of anonymity and therefore tend to be less inhibited and more likely to engage in aggressive behavior (Ellison et al., 1995).
- They are frequently “Type A” personalities characterized by high levels of competitiveness, time urgency, irritation, and hostility (Evans et al., 1987).
- They run stop signs, disobey red lights, speed, tailgate, weave in and out of traffic, pass on the right, make unsafe lane changes, flash their lights, blow their horns, or make threatening hand and facial gestures.

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<sup>4</sup>Statement made by NHTSA Administrator Ricardo Martinez, M.D., before the Subcommittee on Surface Transportation in the U.S. House of Representatives (July 17, 1997).

<sup>5</sup>National Survey of Speeding and Other Unsafe Driving Actions, National Highway Traffic Safety Administration, January 1999.



recommendations in this Action Guide are model strategies, which States can begin to implement immediately.

### **Where We Want to Be**

It is NHTSA's hope and the goal of the Implementation Team to raise public awareness of the dangers of aggressive driving and to make it a higher priority on social, political, legal, and judicial agendas. Increased awareness is needed to help ensure that law enforcement officers enforce reckless and/or aggressive driving laws, that prosecutors persistently charge violators, and that judges convict and sentence offenders. Needed comprehensive solutions require everyone to play a role in spreading the word and in providing leadership and support from the top down for ending aggressive driving on our roadways.

Both the Implementation Team and NHTSA recognize that making aggressive driving socially unacceptable will take time. They expect the broad-based Action Guide presented here to serve as an impetus and "blueprint" for legislators, law enforcement, the judicial system, and community leaders to build awareness of and seek solutions to this problem. Aggressive driving advocacy groups are urged to join with other community initiatives already underway, such as "Safe Communities," to easily extend efforts to raise awareness. Advocacy groups are essential to keep the aggressive driving issue prominent in the media and in the public's consciousness. Corporate America must also get on board and realize its stake in controlling traffic and improving congestion—two known precursors for aggressive driving incidents. In all cases, action must begin now.

### **How We Get There**

The Implementation Team emphasizes the need for leadership and support to combat aggressive driving—from the top levels of government down to the law enforcement officers in the field. Law enforcement, prosecutors, judges, and the community must work together to support efforts to enforce existing traffic laws, prosecute violators, and appropriately convict and sentence offenders. States must continue to develop innovative enforcement programs targeting aggressive driving, strengthen reckless driving laws to provide appropriate penalties, and raise awareness among the public of the seriousness of the aggressive driving problem.

- **Innovative Enforcement Programs.** As of February 2001, NHTSA is aware of at least 50 active State and local aggressive driving programs across the Nation. These programs attempt to reduce the types of violations an aggressive driver is likely to commit, such as speeding, following too closely, improperly changing lanes, improperly passing, and failing to obey traffic control devices or to yield the right-of-way. For example, the New Jersey State Police started its multi-agency enforcement program after it determined that 63 percent of fatal crashes stemmed from aggressive driver violations. The Implementation Team advocates training and education aimed at encouraging officers to write aggressive driving citations.
- **Stronger Aggressive Driving Laws.** In May of 1998, Arizona became the first State to enact aggressive driving legislation. This law requires violators to be charged with aggressive driving if they commit a speeding offense and at least two reckless driving-related offenses. Since Arizona's law passed, a number of States have attempted to pass aggressive driving legislation, but only five States have done so (see sidebar). In July 1999, Delaware

passed an aggressive driving law that defines aggressive driving as conduct that violates three or more specific traffic violations. Virginia's law does not target violators, but requires that aggressive driving instruction be part of driver education programs offered through the high school system.

NHTSA and the National Conference of State Legislatures will continue to track legislation and maintain this information on the NHTSA website at [www.nhtsa.dot.gov/ncsl/](http://www.nhtsa.dot.gov/ncsl/).

- **Increased Awareness.** The Implementation Team strongly advocates making anti-aggressive driving campaigns a national priority. It views as essential the need to raise public awareness of the dangers of aggressive driving conduct and to challenge all drivers to critique their own driving behavior.

### **Innovative Enforcement Efforts in the States**

Innovative traffic enforcement efforts can help reduce aggressive driving by raising awareness among members of the motoring public. The following approaches, used to target aggressive driving, share several key elements, summarized below.

- ***Using a variety of enforcement vehicles, such as aircraft, motorcycles, and unmanned control units.*** The Connecticut State Police use unmarked units to identify aggressive drivers and marked units to stop aggressive drivers. Aircraft are sometimes used in tandem with ground units to minimize the hazards of high-speed pursuits. The Minnesota State Patrol is using rotary and fixed wing aircraft equipped with cutting edge technology to curtail aggressive driving in the Minneapolis/St. Paul metro area. A high-resolution video camera records violations during daytime flights, and a thermal imaging unit provides nighttime observation capabilities. Through a mobile video receiver in their patrol cars, officers can replay the violations to the violator during citation issuance.
- ***Having an aggressive driving report line for motorists to call in when they witness aggressive driving.*** The Colorado State Patrol (CSP) accepts calls from motorists who dial STAR CSP (\*277) on their cell phones. The system prints out a complete report of the calls, which is delivered to a CSP dispatcher, and automatically issues warning letters

### **Recent Aggressive Driving Legislation**

- Arizona (May 26, 1998)
- Virginia (March, 1998)\*
- Delaware (July 22, 1999)
- Nevada (May 28, 1999)
- Rhode Island (July 13, 2000)
- Utah (March 3, 2000)

In 1998, 9 States introduced a total of 26 aggressive driving bills, only 2 of which—the Arizona aggressive driving bill and the Virginia driver education requirement—were enacted. In 1999, 17 States introduced a total of 36 bills, 2 of which—in Delaware and Nevada—were enacted. In 2000, 17 States introduced 33 bills, 2 of which—in Rhode Island and Utah—were enacted (see NHTSA's Legislative Tracking Database at <http://www.nhtsa.dot.gov/ncsl/> for current information on aggressive driving legislation and other traffic safety topics).

\*Requires aggressive driving to be included in Driver Education.

to vehicle owners. This program is in partnership with Vision TEK, Inc., and Colorado wireless phone companies.

- ***Using unmarked units and stealth tactics to detect aggressive drivers.*** The St. Petersburg, Florida, Police Department's "Where's Alf" program—named after the "Where's Waldo" concept—uses non-traditional vehicles as a platform to observe the motoring public. The officer observes traffic, then calls ahead to marked patrol vehicles to take enforcement action. Michigan State Police use an old clunker car, called their "stealth vehicle," to observe aggressive drivers. A uniformed trooper rides in the old car and calls marked units to initiate traffic stops. The Washington State Patrol uses two vehicles that look like taxi cabs to detect aggressive drivers.
- ***Using digital video cameras, with follow-up action.*** The Maryland State Police aggressive driver program, known as Aggressive Driver Video and Non-Contact Enforcement (ADVANCE), uses digital video cameras and lidar to identify and record aggressive drivers and other violators. Letters and photos of the violation are sent to offending drivers. Massachusetts State Police have equipped unmarked vehicles with digital cameras connected to radar (see sidebar).
- ***Using "centipede" enforcement tactics.*** The "centipede" enforcement approach, used by Pennsylvania State Police and other departments, consists of spacing a series of police cars out along a highway, a couple of miles apart. Motorists may believe that once they pass an officer, the likelihood of being stopped is reduced. Yet any one of the centipede officers can take enforcement action when a violation is observed, so seeing additional officers as a trip continues serves as a strong deterrent to motorists.
- ***Partnering with other programs and agencies.*** To counter aggressive driving through a major construction interchange, the Albuquerque Police Department in New Mexico formed an unprecedented partnership with the State Highway Department, the Traffic Safety Bureau, a construction company, city and State engineers, and the New Mexico State Police. Local and state police conduct saturation patrols of interstate roads and city streets experiencing increased congestion. Cameras placed throughout the construction area observe problems as they occur.

### **Video and Radar—An Effective Combination in Massachusetts**

The Massachusetts State Police use unmarked, non-traditional police vehicles fully equipped with concealed emergency lights, police radio, radar, video cameras, and high-performance engines to observe and stop aggressive drivers. When the unmarked unit observes unsafe driving behavior, it catches up to the violator and activates the video camera. The radar is connected to the camera, which constantly records the driver's speed. The trooper narrates into the video microphone the driving pattern he or she is observing, then calls for a marked unit to pull the driver over. To date, little arguing has occurred on the roadside once the violator understands that his or her behavior was caught on videotape, and no chases have resulted. Subsequent reports issued following driver's license history checks have resulted in 200 suspended licenses for repeat aggressive driving offenders.

- ***Increasing aggressive driving education and awareness among officers and citizens.*** The Oklahoma City Police Department trained 230 officers to observe and stop aggressive drivers in its Reduction of Accident and Aggressive and Inconsiderate Drivers (RAID) cars. The officers were taught that targeting aggressive-driving-type violations reduces crashes. Several speed surveys revealed that speeding and crashes decreased in high-crash areas after special units became involved. In South Carolina, the Greer Police Department participated in "Targeting the Aggressive Driver," an extensive education program for both citizens and officers that is combined with an enforcement program. A 22 percent drop in crashes occurred within 7 months of this campaign. The Smooth Operator Campaign in Northern Virginia, suburban Maryland, and the District of Columbia combines the efforts of 26 law enforcement agencies with public relations and research to address all areas of aggressive driving: data collection and analysis, public awareness and education, coordinated enforcement efforts, and driver improvement strategies.
- ***Engineering new systems and technologies to detect aggressive drivers.*** Several law enforcement agencies are using newly engineered systems and technologies to detect aggressive driving violations and improve enforcement efforts. During a recent enforcement operation in Richardson, Texas, where the police and the city engineering department jointly devised a light system that could safely detect red light runners downstream from the traffic light. More than 200 citations were issued in the first two days. To ensure that the courts would accept this technology, the police department held demonstrations for judges before it was put into operation.
- ***Eliciting media involvement in making aggressive driving a high-profile concern.*** One method that several law enforcement departments have used to involve the media is to invite them to ride with troopers and witness how aggressive driving programs work. The Washington State Patrol, for example, used the media to advertise the start of its Aggressive Driving Program, then asked them to ride along with officers making aggressive driving stops. Videotape of violators was aired on the local news. Other departments have created public service announcements (PSAs) to raise public awareness. The Arizona Department of Public Safety's PSA about aggressive driving, "30 Seconds, Is It Worth It?" recently won first place in a highway safety PSA campaign.

NHTSA is continuing to gather successful countermeasures and enforcement strategies from State and local aggressive driving enforcement program sites, and to serve as a clearinghouse to communities interested in starting aggressive driving programs. Summaries of these programs, along with the program contact, are posted to NHTSA's website in the section, Aggressive Driving/Speed, at <http://www.nhtsa.dot.gov/people/injury/enforce/>.

## **The National Aggressive Driving Action Guide**

The following Action Guide summarizes the work of the Aggressive Driving Implementation Team, formed to devise strategies for carrying out recommendations developed by participants in DOT's symposium, *Aggressive Driving and the Law: A Symposium* (January 22-23, 1999). The Action Guide advises States on a number of issues related to aggressive driving and includes recommendations for raising awareness, improving enforcement-related efforts, and criminalizing aggressive driving offenses. Recommendations call for public campaigns, greater use of technology, legislative actions, targeted training, new partnerships, and increased

enforcement. Directed to State and local officials, legislative bodies, criminal justice practitioners, highway safety advocates, and the community at large, these recommendations are intended to help define aggressive driving behavior and provide “best solutions” for curtailing it. The model framework presented here will assist other efforts already taking place across the Nation to spread the word in communities that the problem of aggressive driving is a serious traffic safety concern that kills citizens and affects everyone in the community.

The sections that follow are organized into six topic areas containing model strategies or best practices relating to Statutory Strategies, Enforcement Strategies, Applied Technology, Charging Decisions, Sentencing Strategies, and Community Leadership. These recommendations are intended for use by a variety of audiences as a dynamic guide to help States raise the profile of aggressive driving and mitigate the serious safety risks it poses to citizens. This document culminates the work of the Aggressive Driving Implementation Team, with earnest wishes that it may serve the purpose of helping to eradicate aggressive driving on our Nation's roadways.



# **National Aggressive Driving Action Guide**

## **Recommendations for the Six Areas**

### **I. Statutory Strategies**

#### **Summary**

Participants at the *Aggressive Driving and the Law: A Symposium* declared aggressive driving to be primarily a State issue, not a Federal one. The Implementation Team therefore developed a model that State legislatures and agencies can use to create or strengthen their own aggressive or reckless driving laws. Most existing reckless driving statutes are difficult to prosecute and carry only minor sanctions. Statutes should be amended to include appropriate punishment to communicate the gravity of the offense, especially when serious injury or death results. Also, State legislators must evaluate the new technologies being developed for recording dangerous and aggressive driving conduct for later use in prosecuting the driver. The model statute and other recommended strategies are listed below.

#### **Intended Audience**

State legislators.

#### **Recommended Actions**

1. ***Strengthen existing statutes to include stricter penalties.***  
Repeat offenders should receive enhanced punishment, including increased points, loss of license, higher fines, and jail sentences or probation.
2. ***Establish comprehensive education programs that address aggressive driving and include them as part of legislative changes.*** At a minimum, include aggressive driving education in public and private driver education programs. States should also consider anger management education as a supplement to other sanctions when making legislative changes.
3. ***Develop statutes that match the severity of the offense to its punishment to send a clear message that aggressive driving is a serious offense.***
  - a. Assess significant “points” on an offender's driving record for violations.
  - b. Include suspension or revocation of driving privileges as part of any proposed statute, for they are effective deterrents.
4. ***Address aggressive driving that results in death or serious injury as a felony.*** Add enhanced penalties to existing reckless driving laws and new statutes, defining “serious injury” according to State laws. Felony offenses require that one of the elements of the statute reference the required mental state of the driver (i.e., wanton or willful disregard for consequences) to meet constitutional muster.
5. ***Provide State and Federal assistance to law enforcement agencies to help defray costs and provide support for retraining in new reckless driving (or aggressive driving) statutes.***
  - a. Provide enhanced training for identifying, recording, arresting, and prosecuting the aggressive driver.

- b. Develop a workshop to encourage law enforcement to target moving hazardous violations, particularly those commonly associated with aggressive driving behavior, and to recruit trainers to deliver this workshop.
  - c. Encourage use of Federal highway safety funds administered by the States for aggressive driving countermeasure training.
  - d. Encourage statutes that permit in-court and out-of-court use of new technology in traffic-related cases.
  - e. Use technology to gather evidence of aggressive or reckless driving, showing a clear violation of the appropriate statute. Obtain legislative authority for sharing this information nationwide, and evaluate technological improvements.
6. ***Adopt the Model Statute developed by the Implementation Team to enact or improve States' reckless driving statutes, including aggressive driving under "Reckless Driving: Aggravated Reckless Driving."***<sup>6</sup> The model is as follows:
- a. A person who operates any motor vehicle with a willful or wanton disregard for the safety of persons or property commits the offense of reckless driving. "Willful or wanton" means the deliberate, conscious indifference to the safety of persons or property. Proof of evil or malicious intent is not an element of reckless driving.
  - b. Upon the trial of any civil or criminal action or proceeding stemming from acts alleged to have been committed by any person operating a motor vehicle, proof that in the course of a continuous driving episode, such person committed three moving violations, either alone or in combination with one another, shall give rise to an inference that the vehicle was being operated with a willful and wanton disregard for the safety of persons or property. Such inference shall not be conclusive, but shall be considered along with all other evidence in determining whether a violation occurred (see sidebar above).
  - c. All persons convicted of reckless driving shall be guilty of a misdemeanor, except as provided under subsection (d), which follows.
  - d. All persons convicted of committing a violation of subsection (a) above shall be guilty of aggravated

### **Proposed Judicial Instruction**

If you find (beyond a reasonable doubt) that at the time the defendant drove the automobile in a continuous driving episode he/she committed three or more violations of the following statutes (insert names of violations) either alone or in combination with one another, you may infer that the defendant operated the vehicle with a willful and wanton disregard for the safety of persons or property. You are never required to make this inference. It is for the jury to determine if the inference is to be drawn. You should consider all of the evidence in determining whether the defendant drove the motor vehicle with a willful and wanton disregard for the safety of persons or property.

**Note:** Some States have a strongly divided opinion as to whether the predicative facts for the inference must be proved beyond a reasonable doubt. Other States may have a clearer line of decision. Therefore, it will be incumbent on the prosecutor, if relying on the inference, to identify the offenses to be used. These suggested instructions should be followed by "definitional" instructions for the predicate offenses. "Issue" instructions may not be necessary. The terms "definitional" and "issue"

<sup>6</sup> The National Committee on Uniform Traffic Laws and Ordinances has also developed a "model" statute.

reckless driving if the violation results in injury or permanent disability or disfigurement of another person. Aggravated reckless driving is a felony.

## II. Enforcement Strategies

### Summary

Better enforcement of aggressive driving violations is central to heightening awareness of the problem and changing people's behavior on the roads. Aggressive driving and enforcement of related laws should be a priority for all those involved, including law enforcement, prosecutors, the judiciary, elected officials, governing authorities, transportation officials, traffic safety organizations, technology developers, automobile manufacturers, vehicle makers, motorists, motorists' associations, and educators. Citizen "tip" lines, multi-jurisdictional enforcement efforts, and partnerships with disciplines outside of law enforcement are other smart enforcement strategies that will greatly aid the anti-aggressive driving movement. Recommendations in this section also call for greater use of new technologies being developed to aid the enforcement effort. (While integral to the enforcement effort, technology-related recommendations are covered more thoroughly in the next section, "Applied Technology.")

### Intended Audience

Law enforcement agencies, transportation officials, state highway safety representatives, traffic safety advocates, technology developers, automobile makers.

### Recommended Actions

1. ***Improve recognition of the aggressive driving problem among all people***—from the general public to the judiciary to automakers—by encouraging public awareness, support for enforcement efforts, increased funding, development of improved technology, innovative enforcement practices, pertinent training, establishment of applicable laws, increased penalties for violators, better equipment, and development of long-term strategies.
2. ***Explore innovative funding mechanisms for aggressive driving programs, equipment, and training.*** Funding should extend beyond law enforcement agencies to other government entities in the traffic safety arena. These grants should encourage multi-disciplinary approaches and provide for the eventual establishment of self-sustaining efforts.
3. ***Expand the use of law enforcement observation platforms (i.e., aircraft, in-car video, and other equipment) that aid in apprehending and prosecuting traffic violators who would otherwise be difficult to convict.*** Devise methods of bringing information about the various observation platforms to the public to increase its support.
  - a. Provide information about successful uses of the equipment to media outlets.
  - b. Compile statistics from jurisdictions that have successfully used these options to demonstrate their benefits.
4. ***Establish education and training programs to communicate the benefits of in-car video equipment to law enforcement agencies and to instruct law enforcement officers in using the equipment to its best advantage when presenting video evidence.*** Devise practical solutions and funding for maintaining the equipment and storing the evidence so that its use will continue.
5. ***Increase use of automated enforcement technologies, such as red-light cameras and photo speed enforcement, to extend law enforcement capabilities and improve traffic safety.***

Explore the use of variable speed limit signs and strategies to encourage compliance. Promote expanded use and sharing among law enforcement agencies of these and other technologies (e.g., photo radar, distance measuring devices, unstaffed radar speed measuring and display devices, cameras for grade-level crossings) to improve traffic safety (see "Applied Technology," #1-4).

6. ***Determine the feasibility of adopting laser speed-measuring equipment currently in use in Europe and Canada for measuring distance between vehicles.*** Determine the cost of implementing and using this equipment, including training and maintenance costs, and whether it meets the Nation's safety and scientific standards or would require additional studies. Investigate funding sources and determine responsibility, whether Federal, State, or local government (see "Applied Technology," #2).
7. ***Increase the use of and consider means of funding computer technology in patrol cars to give officers access to driver's license histories and to a database listing of previous vehicle stops*** (see "Applied Technology," #7).
8. ***Establish "tip" lines for citizens' use in reporting dangerous drivers, such as aggressive, unsafe, and impaired drivers, to a law enforcement agency (e.g., #77, 366-TIOS, \*47, etc.).***<sup>7</sup>
  - a. Include information on safe cellular telephone usage in the "tip" line marketing materials, to lesson distraction on the part of drivers reporting these dangers.<sup>8</sup> Published criteria for "tip" lines should contain a clear definition of the violations and/or conditions for using them, and address the need for a common set of terms and behaviors that the public, law enforcement, media, courts, and others interested in traffic safety will easily understand and accept.
  - b. Encourage establishment of one standardized number for reporting dangerous drivers on roads and highways.

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<sup>7</sup> The Cellular Telephone Industry of America (CTIA) does not support the use of any toll-free or singular cellular number other than 911 for reporting highway hazards or dangerous driving. This option may work in communities with established 911 systems, but many rural areas do not have local 911 systems. Some cellular carriers provide a distinct number for motorists to summon assistance, but these numbers vary across jurisdictions, and callers may incur a charge, especially when outside their local calling areas. States, in cooperation with the cellular carriers in their areas, decide how they want motorists to call and report these unsafe driving behaviors. At least 29 States have special numbers for reporting impaired, aggressive, or unsafe driving. Typically posted along roadways and advertised as part of awareness programs, many of these special numbers have been in operation for years and are well received and used. Because many 911 systems are overwhelmed by the large number of callers reporting driving behaviors, a way to divert these calls is generally preferred. This approach would not eliminate 911 as the universal emergency number, but would provide alternatives. The cellular industry should partner with law enforcement and traffic safety advocates to coordinate the designation of one toll-free cellular number that motorists nationwide can use to obtain help for hazardous conditions, dangerous drivers, and other emergencies. Absent this effort, it is recommended that all cellular carriers designate a specific number for this purpose.

<sup>8</sup> The National Highway Traffic Safety Administration recommends that drivers always exercise caution when using cellular telephones (e.g., use hands-free devices if possible, have a passenger make the call, pull off the road to a safe location before placing the call, etc.).



- c. Establish consistent procedures within law enforcement agencies for accepting and responding to these types of calls. These procedures could include:
  - Broadcasting a lookout to officers working in the area where the incident is taking place, or passing the information along to nearby jurisdictions through which the aggressive driver may be traveling.
  - Assigning an officer to meet or talk with the reporting party and, depending upon the seriousness of the incident, conducting a follow-up investigation to identify the suspect and levy charges.
  - Maintaining a record of the incident so that information is on file in case other people report the offender within a specified time period. Some agencies may want to have the information available should the reported offender be stopped in the future. Also, some agencies may maintain “hot sheets” on drivers who have repeatedly been reported for unsafe driving behaviors.
  - Identifying vehicles reported as engaging in dangerous behavior to the registered owner, if not the driver.
  - Allocating resources to handle these calls and subsequent agency response.
9. ***Establish and publicize additional numbers or other contact sources so the public can report past events, ask questions, or seek follow-up action.*** Because many 911 systems are overburdened, agencies should consider establishing a separate number (e.g., #77, 311). Citizens also may be asked to report unsafe driving incidents through means other than phone, such as a letter, e-mail, websites, forms, etc. These alternatives would help prevent overload of the primary number.
  - a. Elicit support from State and local officials for publicizing the number(s) that drivers can use to report violators to law enforcement personnel (consider signs along the roadway, State road maps, variable message boards, media market, informational brochures, driver training and retraining, etc.).
  - b. Clearly identify the violations and/or other circumstances under which motorists should call the number(s)—to prevent misuse or overloading of resources.
10. ***Participate in multi-jurisdictional enforcement efforts between agencies.***<sup>9</sup> Multi-agency, cooperative, and coordinated program efforts provide more efficient and effective enforcement, education, and awareness strategies. Raise awareness among the public by increasing media interest in aggressive driving and law enforcement efforts; sharing successful practices, policies, training, equipment, experiences, and data collection; and facilitating the sharing of regional markets for paid, earned, and donated media exposure.
11. ***Partner with disciplines outside of law enforcement.*** Seek the participation of experts in traffic engineering, transportation safety, injury prevention, mental health, public information, and data and trend analysis and evaluation.

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<sup>9</sup> NHTSA, State, and experienced practitioners should provide technical assistance to jurisdictions interested in developing multi-agency approaches to aggressive driving. Agencies that need funds or materials are encouraged to coordinate with their State Highway Safety Office for assistance. Funds would help carry out strategic operations planning; public awareness campaigns; regional and cross-disciplinary training workshops; and acquisition of shared technology and equipment.

12. ***Educate the public about situations that constitute and precipitate aggressive driving behavior and the differences between aggressive driving and road rage.*** This awareness approach may encourage voluntary changes in driving behaviors.
13. ***Encourage transportation officials, law enforcement, traffic safety groups, injury (and illness) prevention practitioners, and mental health providers to work together to validate the causes and effects of aggressive driving behaviors.*** Once the causes and effects of aggressive driving behavior are determined, agencies will be able to better direct enforcement and educational efforts at reducing related problems. This effort should include providing information to the public, transportation officials, the judiciary, traffic safety organizations, law enforcement, business leaders, and others on the following points:
- The acts that constitute aggressive driving and road rage.
  - Consequences of these acts (civil, criminal, and administrative penalties; increased health problems; reduced quality of life; increased insurance rates; contribution to additional highway congestion because of crashes; reduced employee productivity; increased use of sick and injury leave, etc.).
  - How to avoid involvement in aggressive acts with others.
  - How to avoid becoming an aggressor.
  - Resources available (cellular numbers to report aggressive acts, stress management assistance, alternate forms of transportation, public and private efforts to improve traffic safety, etc.).

### III. Applied Technology

#### Summary

Increasing the use of applied technologies, particularly those related to improving traffic safety and enforcement, can give a big boost to prosecutors and law enforcement officers in the field by helping to identify and prosecute aggressive driving offenders. The Implementation Team encourages expanded use of in-car video and photo red-light cameras, speed measuring devices, and other automated enforcement technologies to improve apprehension and prosecution of aggressive drivers. In addition, system-wide technologies for automated electronic reporting and linking of data among disciplines will facilitate better communication among law enforcement, prosecutors, and judges, and ensure more efficient processing of aggressive driving cases. Other recommended technologies, such as message boards on the roadside, require the support of State transportation officials and State and local law enforcement. Nearly all recommendations in this category have related training and funding requirements.

#### Intended Audience

State and local officials, state highway safety offices, criminal justice practitioners, highway safety advocacy groups, and private industry.

#### Recommended Actions

1. ***Promote the wider use of in-car video, automated speed, and photo red-light enforcement cameras to record and document driving behaviors and personal driver behaviors.*** In-car video cameras provide additional evidence and enhance the ability to prosecute crimes.<sup>10</sup> The use of cameras will reduce aggressive driving, promote public confidence, and improve officer safety.
  - j. Encourage adoption of legislation that would allow the use of this technology and the issuance of violation notices (with protections for innocent persons), with fines rather than just warnings.
  - k. Request supplemental funding by the Federal Government in the form of grants to States and localities to purchase these devices.
  - l. Determine the best practice for using this technology for enforcement activities as well as for evidence in court.<sup>11</sup>
  - m. Establish education and training programs for law enforcement agencies so they can appreciate the benefits of the equipment and determine its program and management value to the agency.
  - n. Provide equipment usage and video guidelines and training to law enforcement agencies.

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<sup>10</sup> All other suggested uses of cameras (besides in-car video) are of secondary importance.

<sup>11</sup> Although this technology is in use throughout the world, agencies should be sure they know the accuracy of the equipment and whether it is subject to manipulation. The agency should know equipment standards, have policies and procedures for equipment operation and maintenance, and have chain of evidence established for storing videos. The agency should also be prepared to assure the public that the equipment is accurate and free from manipulation, to instill confidence in its use.

- o. Devise practical solutions for maintaining the equipment provided to law enforcement agencies, so that it will not be abandoned if a problem arises.
  - p. Determine the costs for such equipment and investigate possible funding sources for it.
2. ***Investigate the feasibility of adopting laser speed-measuring equipment with the new option of measuring distance between vehicles, a technology used in Europe and Canada.*** Before adding such options, however, agencies must ensure that the added feature does not jeopardize the reliability of the speed-measuring equipment as normally used.
- a. Determine which equipment is available for use in the United States. Discover from manufacturers whether the equipment can be of practical use on our roads and in our cities, giving particular consideration to the structure of our interstate and highway system and the volume of traffic.
  - b. Elicit from manufacturers any special requirements or prerequisites that must be fulfilled before the equipment can be used (e.g., Does it only work on roadways made of certain materials? Does it only work in high traffic or low traffic?, etc.)
  - c. Determine the cost of purchasing and using the equipment, including operator and maintenance costs.
  - d. Determine funding sources and whether funding should be the responsibility of Federal, State, or local government.
  - e. Investigate the reliability of the equipment, particularly whether it meets the Nation's safety and scientific standards, whether it must be periodically tested or examined, and whether studies have been done or can be done to determine its accuracy.
3. ***Promote the wider use of unstaffed radar speed display devices.*** Local authorities should decide if the device is to be used for deterrent or warning purposes, or as an enforcement tool.
- a. Determine the reliability of such devices and their maintenance requirements.
  - b. Create a media press kit to help raise public awareness of the devices and their intended use.
  - c. Determine cost of the devices and methods for financing their use.
4. ***Explore the use of variable speed limit signs and consider strategies to encourage compliance, such as educating the public about their purpose and importance.***
5. ***Establish data links (automated/electronic reporting) from traffic officers' reports and ticket-writing functions to prosecutors' offices, and otherwise facilitate better communications among professionals from different disciplines.***
- a. Establish guidelines that prosecutors and law enforcement agencies can use to achieve shared automated reporting.
  - b. Explore availability of software and technology for establishing a database between law enforcement agencies and prosecutors' offices.
  - c. Determine funding sources to support all costs associated with automated reporting (e.g., grants, violator's fees, etc.).
  - d. Establish criteria for cases to be subjected to automated reporting (e.g., whether only felonies, misdemeanors and felonies, serious traffic offenses, all investigations, etc.). This effort will help prevent clogging the system with reports outside the jurisdiction of prosecutors' offices.
  - e. Determine computer equipment needs for all elements of the system to ensure that technology is available to make the process work (e.g., within law enforcement agencies,

- prosecutors' offices, pre- and/or post-trial components, licensing divisions, etc.).
- f. Establish guidelines to govern training and information exchanges between law enforcement agencies and prosecutors' offices, so they can take advantage of such technology.
  - g. Investigate whether electronic reporting can benefit law enforcement agencies by meeting several needs simultaneously. For example, can officers use electronic reporting to file required reports with their departments, prosecutors' offices, and State agencies?
6. ***Adopt crash reconstruction software.***
- a. Encourage crash reconstructionists, law enforcement agencies, and prosecutors to access the National Traffic Law Center's website (<http://www.ndaa-apri.org/apri/NTLC/Index.htm>) for information to help them with specific cases or questions. The National Traffic Law Center's clearinghouse should include case law, legislation, research studies, and trial documents.
  - b. Solicit assistance from nationally recognized experts in the field of crash reconstruction to create a database containing more substantive information on driving behaviors commonly associated with aggressive driving.
  - c. Advocate for proper training before such material is used to help ensure positive results. Auto Cad and Auto Sketch are two software programs used in conjunction with the Total Station. The National Association of Accident Reconstruction publishes a quarterly journal that provides training dates for using crash reconstruction software.
7. ***Increase the use of computer technology in patrol cars to give officers access to driver's license histories and to a database listing of previous vehicle stops.***
- a. Obtain legislative authority for sharing this information nationwide.
  - b. Obtain funding for this significant project, providing for establishment of a central database (such as National Crime Information Center) and/or the successful coordination of existing ones (on State and regional levels); staffing to maintain the database and handle increased workloads within participating agencies (law enforcement, judicial, and/or transportation); and procurement of technology and equipment (compatible nationwide) and any necessary training for system operators and users.
  - c. Conduct public awareness activities to demonstrate the validity and necessity of collecting and sharing this information for public safety purposes. Such efforts may both deter habitual traffic offenders and reduce concerns related to intrusive Government ("big brother") perceptions.
8. ***Use variable message signing to advise and communicate with the motoring public about traffic congestion, delays, crashes, and so on, providing detour and alternate route information.*** Message boards are an extremely important communications strategy, as traffic congestion and resulting delays are considered a primary cause of aggressive driving and road rage.<sup>12</sup> Prompt implementation of these boards and timely updates of travel information are essential to create public confidence in their accuracy.

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<sup>12</sup> Coordination among law enforcement, transportation personnel (including those performing pre-planned or emergency roadway repairs), fire and rescue agencies, and those responsible for placing and revising information on these boards is crucial.



- a. Gain transportation officials' support for using these signs, including both permanently installed signs in areas where traffic congestion can be a problem, and temporary boards, which could be set up for major incidents (crashes, hazardous materials spills, etc.) or used for pre-planned events (construction projects, new traffic patterns, etc.).
  - b. Obtain funding for more signs and greater usage of these signs, particularly along high-use roads.
  - c. Increase staff to ensure messages are promptly displayed and updated.
  - d. Gain approval to use these signs to reinforce positive driving behavior when they are not otherwise needed.
9. ***Encourage communities to take advantage of computer-based distance learning and other alternatives, particularly in light of diminished school-based driver education programs.***
- a. Promote efforts aimed at strengthening driver education by establishing criteria for schools to include in driver education or health and safety classes.
  - b. Include computer-based distance learning as part of the curriculum in driver education and/or school health and safety classes, and as part of professional driving school curriculum certification programs.
  - c. Coordinate with State agencies to include computer-based distance learning in the written portion of their driver examination.
10. ***Promote Intelligent Transportation Systems (ITS) technology, particularly for its congestion relief benefits.***
- a. Explore all technological options for mitigating traffic congestion, given the serious driving dangers it poses.
  - b. Explore the effectiveness of promoting ITS in jurisdictions currently using ITS technology, and use these jurisdictions as models for a national program. Examine statistics in these jurisdictions to determine whether such ITS technologies helped to reduce traffic crashes and violations (see box for definition).

#### **What is ITS?**

**Intelligent Transportation Systems (ITS) is a program of the U.S. Department of Transportation designed to foster the development of advanced technologies to improve the safety and efficiency of the transportation system on many levels. The application of ITS technologies inside vehicles and as part of the transportation infrastructure is intended to ameliorate congestion, enhance safety and energy performance, improve productivity, and mitigate the environmental impacts of operating transportation systems.**

## IV. Charging Decisions

### Summary

A major recommendation in this category is to make aggressive driving a crime, chargeable as either a misdemeanor or felony, depending on conditions. Again, the call is to elicit the support and assistance of all involved parties, including State legislators, law enforcement personnel, prosecutors, the judiciary, traffic safety advocates, and others. Citizen activist groups should make their concern for increased aggressive driving enforcement and prosecution known to legislators and local criminal justice authorities. Criminal justice advocates should work toward making reckless/aggressive driving a crime, and State legislatures should enable legislation properly establishing it as such. As in other areas, the Implementation Team recommends organizing a public relations campaign to raise the profile of aggressive driving violations and to elevate the issue to become a higher priority among law enforcement, prosecutors, and judges.

### Intended Audience

State legislatures, highway traffic safety advocates, prosecutors, judicial branch, law enforcement, clerks of courts, Department of Motor Vehicle executives, citizen activist organizations, State judicial educators, State prosecutor coordinators, State law enforcement academies, the National Judicial College, the National Conference of Special Court Judges, the American Judges Association, the National District Attorney Association, International Association of State Directors of Law Enforcement Standards and Training, International Association of Chiefs of Police, the National Sheriffs' Association, the National Organization of Black Law Enforcement Executives, and the Hispanic American Police Command Officers Association.

### Recommended Actions

1. ***Criminalize aggressive driving behavior through reckless driving statutes.*** Civil infraction offenses have little deterrent effect and should not be used for aggressive driving offenses.
  - a. Develop a constitutionally sound model statute. Actively engage with States that are taking a proactive approach to aggressive driving. Use States with criminalized aggressive driving laws as models for States who have none.
  - b. Compile reckless driving statutes of all 50 States, to assist in drafting model legislation.
  - c. Use uniform traffic citations with uniform statewide statutory provisions.
  - d. Rename the offense as reckless/aggressive driving and/or aggravated reckless driving.
  - e. Seek the support and assistance of State legislators in enhancing statutes, and of highway traffic safety advocates, prosecutors, and law enforcement agencies, in supporting the legislation.
  - f. Educate State legislatures on the seriousness of the aggressive driving problem and help them understand that a civil infraction with ticket payout has little deterrent effect on the driving behavior of the general public.
  - g. Give the investigating officer a sufficiently broad number of charging options for use at his or her discretion.

2. ***Develop written guidelines and training for prosecutors and law enforcement to use in making charging decisions.*** An aggressive driving offense should not be reducible to a lesser charge.
  - a. Discourage pre-trial intervention and diversion programs and develop clear and succinct guidelines emphasizing that the seriousness of the offense requires intervention by a judge. "Payout" schemes, in addition to providing no deterrent effect, allow many serious driving offenders to escape judicial review and discretionary sanctions by the judge because of perfunctory handling.
  - b. Ensure that law enforcement, prosecutors, and courts administer the reckless/aggressive driving offense in a fair and just manner, and in a way that creates a deterrent effect.
3. ***Educate appropriate individuals in the criminal justice process as to proper charging decisions.*** Law enforcement should provide detailed information to all relevant entities within the criminal justice system.<sup>13</sup> All offenses should be cited and prosecuted.
  - a. Stress to law enforcement personnel that accurate information is a vital part of the criminal justice process.
  - b. Recognize that the court requires detailed information to assign informed and appropriate sanctions.
4. ***Accomplish heightened awareness of the aggressive driving issue through professional education of law enforcement, prosecution, and judges.***
  - a. Develop a model curriculum to be presented through State and national training academies to respective audiences.
  - b. Uniformly train the trainers who will present the curriculum to their respective audiences.
  - c. Develop public education processes that will deter aggressive driving behavior.
  - d. Amplify within the curriculum the importance of not trivializing administration of reckless/aggressive driving offenses.
5. ***Initiate a local public relations campaign to emphasize to the general population that traffic court is a forum of lawful authority that should not be viewed as a lesser court.*** Aggressive driving and impaired driving are serious violations.
6. ***Elevate reckless/aggressive driving to a high priority among law enforcement, prosecutors, and judges.*** Prosecuting attorney staffs should have a designated traffic law specialist, and experienced prosecutors should rotate through traffic court assignment. Additionally, experienced traffic court prosecutors should handle or closely supervise serious driving offenders to ensure that offenders do not avoid stern consequences for their behavior.

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<sup>13</sup> Law enforcement agencies can include an identifier box on the uniform traffic citation to inform prosecutors that the charged offense was identified as an aggressive driving behavior.

## V. Sentencing Strategies

### Summary

Working hand in hand with Statutory Strategies and Charging Decisions, this section echoes several of the recommendations made in those topic areas, especially the importance of criminal sanctions for aggressive driving violations. The Implementation Team recommends providing judges and prosecutors with a range of sentencing options, including license suspension or revocation, probation, and payment of restitution. Civil penalties have proven to be ineffective deterrents and provide less flexibility and control to the sentencing authority. Aggressive driving defendants must receive due process, and legislation should accomplish sentencing objectives without being overly intrusive or costly to society.

### Intended Audience

State judicial educators, State law enforcement academies, State prosecutor coordinators, State departments of motor vehicles, State Clerks of Court, State or local pre- and post-trial offices, the National Association of State Judicial Educators, the National Judicial College, the National Conference of Special Court Judges, the American Judges Association, the National District Attorneys Association, the International Association of State Directors of Law Enforcement Standards and Training, the International Association of Chiefs of Police, the National Sheriffs' Association, the National Organization of Black Law Enforcement Executives, and the Hispanic American Police Command Officers Association.

### Recommended Actions

1. *Enact a broad range of criminal sanctions that will provide greater flexibility and control to the sentencing authority.*
2. *Strive to accomplish with aggressive driving sentencing as many of the traditionally accepted objectives of sentencing as possible*, including deterrence (both individual and community), rehabilitation, education, punishment, restitution, and recouping of costs (both court and investigative).
3. *Accord defendants "due process" at the sentencing stage as an integral part of any sentencing strategy.*<sup>14</sup>
4. *Provide for specific levels or degrees of severity in the penalty provisions of aggressive driving statutes, depending on the nature of the offenses and whether there were aggravating circumstances.*
5. *Consider the following options when sentencing aggressive driving offenders:*

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<sup>14</sup> According defendants "due process" in criminal cases applies at all "critical stages" of criminal proceedings. The sentencing portion of a criminal proceeding is a critical stage and entitles a defendant to be represented by counsel. *Gardner v. Fla.* 430 U.S. 349, 358; 97 S.Ct.1197, 51 L.Ed. 2d 393, 402 (1977). Defendants who are indigent and face the possibility of incarceration have the right to court-appointed counsel at the critical stage of sentencing. "Due process" requirements in criminal sentencing proceedings necessarily cause them to be more protracted and more costly than the penalty stages in civil infraction cases.

- Supervision through an independent monitoring entity (e.g., probation department). Although this alternative is better than judge-supervised probation, probation costs less.
  - Driver license suspension and/or revocation, with a probation condition that the defendant not operate a motor vehicle during the period of suspension or revocation.
  - Driver license restriction, including restriction for essential driving purposes only, such as for driving to and from work.
  - Imposition of fines, both mandatory and discretionary, including the option of making such fines payable through community service—for individuals unable to afford the fine imposed.
  - Completion of court-approved driver improvement programs or courses.
  - Completion of anger management programs that emphasize behavior modification.
  - Vehicle impoundment for a specified time period.
  - Vehicle forfeiture in aggravated cases, such as those involving personal injury.
  - Imposition of incarceration penalties, including sentences that are deferred, withheld, or suspended, according to satisfactory completion of specified probation conditions.
  - Payment of restitution to victim(s) of an aggressive driving incident that resulted in personal injury or property damage.
  - Requirement that defendant write a letter of apology to any victim(s) or to law enforcement or to the public in general. This requirement can include sending the letters to local newspaper editors.
  - Participation in drug, alcohol, or substance abuse programs where such a problem was appropriately diagnosed through a professional evaluation, and the act of aggressive driving was committed while under the influence.
  - Requirement that defendants affix bumper stickers to their vehicles to alert law enforcement and the community at large of a prior aggressive driving conviction.
6. ***Include in criminal sanction statutes administrative license suspension or revocation.*** Statutory provisions should provide for the immediate seizure of an offender's license when an aggressive driving citation has been issued in connection with a crash in which someone was injured or the offender was impaired.
7. ***Make use of probationary status and strive to accomplish the two objectives delineated in the decision of People v. Mason 488 P. 2d 630, 632 (Cal. 1971).*** Probation should impose penalties, sanctions, and conditions related to the offense for which the defendant was convicted, and require or forbid conduct reasonably related to preventing the charged offense from recurring.
8. ***Strive to accomplish through legislation the greatest number of sentencing objectives with the least intrusion and cost to society.*** The branches of government concerned with aggressive driving should collaborate in support of effective sentencing strategies.<sup>15</sup>
9. ***Provide trials for aggressive driving offenders who fail to appear for trial after notice (in absentia trials).***

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<sup>15</sup> Legislative bodies must be willing to provide judges with sentencing discretion and with flexibility through probation to exercise it. Implementing effective sentencing strategies will depend on the willingness of judges to effectively and independently exercise their discretion in using the sanctions available to them, and on the willingness of legislatures to provide the judiciary with the necessary judicial personnel and facilities to carry out sentencing of aggressive driver cases.



## VI. Community Leadership

### Summary

Community support and partnerships are necessary to increase awareness of the risks of aggressive driving. Community outreach, whether through a "Safe Communities" program, a community policing effort, a church or school, or through organizations such as Kiwanis or Jaycees, can put a "human face" on the aggressive driving problem. Inviting victims to share their experiences as part of community outreach initiatives is a good way to change people's attitudes toward aggressive driving, for victims demonstrate the human consequences of traffic-related recklessness that causes injury and suffering. Soon-to-be drivers and commercial drivers are often overlooked constituencies in receiving the aggressive driving message. Developing partnerships within the community helps get the message out that aggressive driving is a safety threat to all citizens. Partnerships should include all levels of elected and other government officials as well as business leaders and community organizations. These alliances should be part of a comprehensive program to address the aggressive driving problem.

### Intended Audience

Community leaders, law enforcement personnel, business leaders, government officials, Boards of Education.

### Recommended Actions

1. ***Include aggressive driving as part of established community programs.*** For example, "Safe Community" leaders can incorporate aggressive driving into their programs and law enforcement agencies involved in community policing can include aggressive driving and other safety topics in their outreach. Business leaders can post messages about the consequences of aggressive driving on bulletin boards, in employee newsletters, in storefront windows, and other highly visible locations. They can also partner with government officials to devise means of getting the message out, perhaps through organized community events.
2. ***Use professional and government alliances to influence decisions surrounding aggressive driving.*** Generally, government officials are thought to be community leaders. They can lend support in their official capacities, through their professional organizations, and as private citizens. Community leaders can influence executive decisions to make enforcement, prosecution, and adjudication of aggressive drivers a priority. Law enforcement agencies have an excellent opportunity to interact with the community in their community policing outreach efforts. Government organizations, businesses, and community groups can demonstrate their support for the enforcement and adjudication of traffic laws and send this message through words and actions to the citizens and to the criminal justice community.
3. ***Increase awareness of the aggressive driving problem through the actions of community leaders, law enforcement administrators, prosecutors, and judges.*** Not only can they educate their constituents about the aggressive driving problem, but they can influence their peers as well. Frequently, law enforcement officers, prosecutors, and judges are invited to make presentations at various civic group meetings. These presentations could focus on the risks of aggressive driving and what can be done to keep aggressive driving from occurring.



## Conclusion

Aggressive driving is not only a law enforcement issue—it is a complex problem requiring comprehensive solutions. The culmination of the Implementation Team's nearly 2-year effort has yielded a broad-based plan of action for legislators, law enforcement, the judicial system, and community leaders to use as a model framework for spreading the word in communities that aggressive driving is socially, legally, and morally unacceptable. Support to promote awareness of this growing problem and to find solutions to it will have to come from a broad spectrum of professionals and grassroots citizen groups working together. NHTSA will ensure that the **National Aggressive Driving Action Guide** receives wide distribution to a variety of audiences, each with a role to play in helping to mitigate the serious problem of aggressive driving on our roadways. The Action Guide will go to State and regional highway safety offices, national prosecutors' associations, judicial membership groups, law enforcement organizations, highway safety advocates, governor representatives, and others. It will also be available on NHTSA's website, [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov), where States can share “best practices” and adapt recommended solutions to meet their needs.

NHTSA hopes that distributing the model statute to the States will assist their discussions of needed legislative changes and enhancements to appropriate misdemeanor and felony statutes. Along with the Implementation Team, NHTSA encourages the States to strengthen their existing reckless driving laws or enact new statutes to provide stiffer penalties for aggressive or reckless driving, including criminal sanctions where death or serious injury occurs. State legislators should also consider means of funding technology to aid the aggressive driving effort (e.g., stationary red-light cameras, video cameras for police vehicles), including promoting corporate sponsorship of new equipment and systems. Along with the Implementation Team, NHTSA urges State and local law enforcement executives to make training of law enforcement officers, prosecutors, and judges a priority. For law enforcement must believe that prosecutors will prosecute offenders, and prosecutors must be assured that judges understand the seriousness of the problem. Officers will then be more likely to enforce existing traffic laws, prosecutors to prosecute violators, and judges to appropriately convict and sentence offenders.

The Implementation Team urges States and other government units to immediately implement its recommendations and to ambitiously seek solutions to the problem of aggressive driving. Action must begin now.

# Acknowledgments

The Aggressive Driving Implementation Team wishes to thank everyone involved in this effort for their time, commitment, and energy to this worthwhile cause.

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A summary of the 1999 DOT symposium *Aggressive Driving and the Law: A Symposium* may be found at <http://www.nhtsa.dot.gov/people/injury/aggressive/Symposium/exesummary.html>.

NHTSA's website, [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov), allows States the opportunity to share "best practices" and adapt recommended solutions to meet their needs.

NHTSA's Legislative Tracking Database, located at <http://www.nhtsa.dot.gov/ncsl>, contains current information on aggressive driving legislation and other traffic safety topics. NHTSA and the National Conference of State Legislatures track and maintain aggressive driving legislation information there.

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A section of NHTSA's website at <http://www.nhtsa.dot.gov/people/injury/enforce/> houses examples of successful State and local aggressive driving countermeasures and enforcement strategies, along with program summaries and contacts.

The National Traffic Law Center's website at <http://www.ndaa-apri.org/apri/NTLC/Index.htm> includes information on case law, legislation, research studies, and trial documents. Crash reconstructionists, law enforcement agencies, and prosecutors are encouraged to access the site for help with specific cases or questions.

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